

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of: )

Doctors' Council of the )  
District of Columbia, )

Petitioner, )

and )

District of Columbia Government, )  
District of Columbia Department )  
of Public Works, )  
District of Columbia Department )  
of Human Services, and )  
District of Columbia Department )  
of Corrections, )

Co-Petitioners. )

PERB Case No. 92-R-01  
Opinion No. 298

DECISION AND ORDER

On October 15, 1991, the Doctors' Council of the District of Columbia (DCDC), D.C. Department of Public Works (DPW/Co-Petitioner), D.C. Department of Human Services (DHS/Co-Petitioner), and D.C. Department of Corrections (DOC-Co-Petitioner), in accordance with Section 504 of the Rules of the Public Employee Relations Board (Board), filed a Joint Petition For Modification of Units (Petition). The Petition concerns a unit of employees employed by DHS and DOC previously found appropriate by the Board for collective bargaining and for which DCDC is the certified exclusive representative. <sup>1/</sup>

In accordance with Board Rule 504.3, Notices concerning the Petition were posted. No requests to intervene, comments or

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<sup>1/</sup> DCDC was first certified as the exclusive representative for a non-compensation unit of medical officers, dentists and podiatrists at both DHS and DOC in Doctors' Council of the District of Columbia and the District of Columbia Government, PERB Case No. 84-R-12, Certification No. 42 (1987). This Certification was subsequently amended to include doctors transferred from Saint Elizabeth's Hospital, U.S. Department of Health and Human Services to DHS. Doctors' Council of the District of Columbia and Government of the District of Columbia, et al., PERB Case No. 88-R-12, Certification No. 42 (As Amended January 5, 1989).

objections to the Petition were received by the Board.

The Petitioners seek to modify the existing non-compensation and compensation <sup>2/</sup> units by adding "unrepresented classifications of non-managerial, non-supervisory physicians, dentists and podiatrists in the Department of Public Works who work forty (40) hours or more per pay period." (Petition at 3.) The proposed addition of employees within these classifications, at this location, currently affects one physician employee. Petitioners state that although the affected employee (unlike the physicians at DHS and DOC) is covered under a non-negotiated salary schedule, i.e., (DS), <sup>3/</sup> the position "is covered by the same retirement, health and life insurance systems as the DHS/DOC doctors already represented by the Doctors' Council." (Petition at 4.) Petitioners further state that the collective bargaining agreement between DCDC, DHS and DOC has expired; however, by its terms, it continues in effect until the negotiation of a new agreement. *Id.* Petitioners assert that "[t]he proposed modification is requested in order to provide representation to the DPW doctor(s) in the same bargaining unit as other D.C. government doctors." (Petition at 5.)

Board Rule 504.1(b) provides that a unit modification may be sought "to add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative." Petitioners have not claimed or asserted that unrepresented classifications of physicians, et al. were created [at DPW] since DCDC was certified as the exclusive bargaining agent of the designated unit at DOC

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<sup>2/</sup> The existing non-compensation unit was placed in Compensation Unit #19 in conjunction with the amendment of Certification No. 42 in PERB Case No. 88-R-12. (See fn. 1.)

<sup>3/</sup> The distinction between the salary schedules exists by virtue of the previously unrepresented status of the affected employee job classification. Nevertheless, Petitioners state that the affected DPW physician is under the same personnel classification, i.e., DS-602, as DHS and DOC physicians. We have ruled that "some dissimilarities of a particular group of employees or the absence of a factor that is not shared to the same extent as the remainder of the unit is not controlling where, under the totality of the circumstances, a general community of interest prevails." District 1199E-D.C. National Union of Hospital & Health Care Employees, Service Employees International Union and Department of Human Services, Commission on Public Health, DCR, Slip Op. No. 293 at fn. 5, PERB Case No. 91-R-01 (1991).

and DHS. We conclude, however, that this claim is immaterial, particularly since the Petition is accompanied by a showing of interest meeting the requirements of Board Rule 502.2. In view of the fact that the Petition is supported by the affected employee(s) and agencies, we find that no question concerning representation exists that would warrant an election among employees in the proposed unit. We therefore conclude for the following reasons that the modification of this unit is appropriate: (1) no question concerning representation exists; (2) the proposed modification conforms with the requirements of D.C. Code Sec. 1-618.9(a) for the establishment of a terms and conditions bargaining unit; and (3) the modified compensation unit consists of broad occupational groups thereby minimizing the number of different pay systems, in accordance with D.C. Code Sec. 1-618.16(b).

Accordingly, we grant the Petition for modification of both the non-compensation unit and compensation unit 19, as described below in the Order.

ORDER

**IT IS HEREBY ORDERED THAT:**

- (1) The non-compensation unit for which Doctors' Council of the District of Columbia is certified as the exclusive representative in PERB Case No. 88-R-12 (Amended Certification No. 42) is modified as set forth below in the "unit description" to include the non-managerial, non-supervisory physicians, dentists and podiatrists at the Department of Public Works.
- (2) Compensation Unit #19 as amended in Slip Op. No. 241, PERB Case Nos. 90-R-03 and 90-R-07 is modified as set forth below in the "unit description" to include non-managerial, non-supervisory physicians, dentists and podiatrists at the Department of Public Works.

Unit Description:

All dentists, physicians and podiatrists employed by the District of Columbia Department of Corrections, the District of Columbia Department of Public Works, and the District of Columbia Department of Human Services including all dentists, physicians and podiatrists who prior to October 1, 1987, were employed by St. Elizabeths Hospital, U.S. Department of Health and Human Services and pursuant to Public

Law 98-621, as of October 1, 1987 became employed by the District of Columbia Department of Human Services, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than purely clerical capacities, employees who are regularly scheduled for less than forty (40) hours per pay period and employees engaged in the administration of the provisions of Title XVII of the District of Columbia Merit Comprehensive Merit Personnel Act of 1978. <sup>4/</sup>

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
Washington, D.C.

January 10, 1992

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<sup>4/</sup> Both the compensation and non-compensation unit are identical in description as a result of amendments to the non-compensation unit in PERB Case No. 88-R-12, which added to the description designated employees transferred from St. Elizabeths Hospital, and the amendment to the corresponding compensation unit in PERB Case Nos. 90-R-03/07, which deleted from the unit the physicians, et al. employed by D.C. General Hospital.